

**THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
TENNESSEE AT CHATTANOOGA**

<b>AUTO-OWNERS INSURANCE</b>	)	
<b>COMPANY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 1:15-CV-00212</b>
<b>vs.</b>	)	
	)	
<b>SOUTHEASTERN CAR</b>	)	
<b>WASH SYSTEMS, MILLER</b>	)	
<b>ELECTRIC, INC.,</b>	)	
<b>THERESA EVANS, individually and</b>	)	
<b>D/B/A ISLAND OASIS, and</b>	)	
<b>D'ALTON PROPERTIES, LLC,</b>	)	
	)	
<b>Defendant.</b>	)	

**ANSWER OF MILLER ELECTRIC, INC. TO CROSSCLAIM OF THERESA EVANS,  
INDIVIDUALLY AND D/B/A ISLAND OASIS AND D'ALTON PROPERTIES, LLC**

Comes the cross defendant, Miller Electric, Inc., by and through counsel, pursuant to the Federal Rules of Civil Procedure, and for its answer to the crossclaim filed against it by the cross plaintiffs, Theresa Evans, individually and d/b/a Island Oasis, and D'Alton Properties, LLC, says as follows:

1. Paragraph 1 of the crossclaim does not require a response from the cross defendant.
2. Cross defendant admits the allegations contained in paragraph 2 of the crossclaim.
3. Cross defendant is without sufficient information from which to form a reasonable belief as to the truth of the allegations contained in paragraph 3 of the crossclaim concerning the information that the cross-plaintiffs learned about through discovery and pleadings, and when the same occurred, and as such the allegations are denied and strict proof demanded thereof.

4. Cross defendant admits the allegations contained in paragraph 4 of the crossclaim.

5. For answer to the allegations contained in paragraph 5 of the crossclaim, the cross defendant denies that cross plaintiffs are entitled to any relief against Miller Electric, Inc. in the present lawsuit through the filing of a cross claim herein, and moves, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss the crossclaim for failure to state a claim upon which relief can be granted. In support hereof, the cross defendant states that (1) the cross claim does not arise out of the same transaction or occurrence and as such is not permitted by Rule 13 of the Federal Rules of Civil Procedure; (2) the crossclaim is barred by the doctrine of prior suit pending; and (3) even if the crossclaim is not barred by the doctrine of prior suit pending, the plaintiffs already have an avenue for the relief they are seeking through the lawsuit filed in Bradley County Circuit Court. The cross defendant relies upon its memorandum of law filed contemporaneously herewith.

6. For answer to the allegations contained in paragraph 6 of the crossclaim, cross defendant admits that Southeastern Car Wash Systems is synonymous with Miller Electric, Inc., and that Miller Electric, Inc. is a party to the present suit, but denies that cross plaintiffs are entitled to any relief against Miller Electric, Inc. in the present lawsuit through the filing of a cross claim herein, and moves, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss the crossclaim for failure to state a claim upon which relief can be granted. In support hereof, the cross defendant states that (1) the cross claim does not arise out of the same transaction or occurrence and as such is not permitted by Rule 13 of the Federal Rules of Civil Procedure; (2) the crossclaim is barred by the doctrine of prior suit pending; and (3) even if the crossclaim is not barred by the doctrine of prior suit pending, the plaintiffs already have an

avenue for the relief they are seeking through the lawsuit filed in Bradley County Circuit Court. The cross defendant relies upon its memorandum of law filed contemporaneously herewith.

7. To the extent that Paragraph 7 of the crossclaim requires a response from the cross defendant, the cross defendant states that the cross plaintiff has already filed a Motion to Amend in the Bradley County lawsuit, which has, upon information and belief, now been granted by the court. Consequently, the plaintiff already has an avenue for the relief they are seeking in the Bradley County lawsuit.

Respectfully submitted,

**TRAMMELL, ADKINS & WARD, P.C.**

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 6, 2015, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the court's electronic filing system.

**TRAMMELL, ADKINS & WARD, P.C.**

By: s/Terrill L. Adkins  
Terrill L. Adkins  
Hannah S. Lowe